

TO:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

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NOV 19 1996

REPORT ON THE  
FILING OR DETERMINATION OF AN  
ACTION REGARDING A PATENT

In compliance with the Act of July 19, 1952, 166 Stat. 814, 35 U.S.C. 290) you are hereby advised  
that a court action has been filed on the following patent(s) in the U.S. District Court:

DOCKET NO. C-96-20957-SW	DATE FILED 11/13/96	U.S. DISTRICT COURT Northern District of California
PLAINTIFF Personalized Media Communications, L.L.C.		DEFENDANT Thomson Consumer Electronics; et al.
<hr/>		
PATENT NO.	DATE OF PATENT	PATENTEE
1 5,335,277	8/2/94	PMC assignee
2 5,109,414	4/28/92	PMC assignee
3 5,233,654	8/3/93	PMC assignee
4		
5		

In the above-entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY	<input type="checkbox"/> Amendment	<input type="checkbox"/> Answer	<input type="checkbox"/> Cross Bill	<input type="checkbox"/> Other Pleading
PATENT NO.	DATE OF PATENT	PATENTEE			
1					
2					
3					
4					
5					

In the above-entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGMENT
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CLERK RICHARD W. WIEKING	(BY) DEPUTY CLERK <i>John Pomeroy</i> John Pomeroy	DATE 11/15/96
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Copy 1 — Upon initiation of action, mail this copy to Commissioner Copy 3 — Upon termination of action, mail this copy to Commissioner  
Copy 2 — Upon filing document adding patent(s), mail this copy to Commissioner Copy 4 — Case file copy

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ORIGINAL  
FILED

NOV 13 1996

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

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9 Attorneys for Plaintiff  
10 Personalized Media Communications, L.L.C.

11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 C - 96 20957 Civil Action No. SW  
14 PERSONALIZED MEDIA EAI

15 COMMUNICATIONS, L.L.C.

16 Plaintiff, ) PERSONALIZED MEDIA  
17 v. ) COMMUNICATIONS, L.L.C.  
18 THOMSON CONSUMER ELECTRONICS; ) COMPLAINT FOR  
19 HUGHES NETWORK SYSTEMS; ) PATENT INFRINGEMENT  
20 HITACHI HOME ELECTRONICS; )  
21 TOSHIBA AMERICA CONSUMER )  
22 PRODUCTS; )  
23 MATSUSHITA ELECTRIC )  
24 CORPORATION OF AMERICA; )  
25 DIRECTV, INC.; )  
26 UNITED STATES SATELLITE )  
BROADCASTING. )  
27 Defendants. )  
28

DEMAND FOR JURY TRIAL

## COMPLAINT

Plaintiff Personalized Media Communications, L.L.C. ("PMC") hereby complains and alleges against Defendants as follows:

I.

## **JURISDICTION AND VENUE**

1. This is a civil action for patent infringement under 35 U.S.C. §§ 271, 281, 283, 284, and 285. Jurisdiction in this Court is founded upon 28 U.S.C. §§ 1338(a).

2. Each defendant is subject to personal jurisdiction in this judicial district under California Code of Civil Procedure Section § 410.10, because each defendant has transacted business in this district, contracted to supply services or things in this district, and/or caused tortious injury in this district.

3. Venue against each defendant is proper in this district pursuant to 28 U.S.C. § 1391(c) and § 1400(b) because each defendant, upon information and belief, is found to have committed acts of infringement or has induced the commission of acts of infringement within the Northern District of California.

II.

## DESCRIPTION OF THE PARTIES

4. Plaintiff Personalized Media Communications, L.L.C., is a Delaware Limited Liability Company having its principal place of business at 110 East 42nd Street, Suite 1704, New York, New York 10017.

5. Defendant Thomson Consumer Electronics, Inc. (hereinafter, Thomson) is a corporation incorporated under the laws of the State of Delaware with its principal place of business at 10330 North Meridian Street, Indianapolis, Indiana 46206.

1       6.    Defendant Hughes Network Systems (hereinafter HNS) is a  
2 corporation incorporated under the laws of the State of Delaware with its principal  
3 place of business at 11717 Exploration Lane in Germantown, Maryland 20876.

4       7.    Defendant Hitachi Home Electronics (America), Inc. (hereinafter  
5 Hitachi) is a corporation incorporated under the laws of the State of California with  
6 its principal place of business at 3890 Steve Reynolds Blvd. in Norcross, Georgia  
7 30093.

8       8.    Defendant Toshiba America Consumer Products, Inc. (hereinafter  
9 Toshiba) is a corporation incorporated under the laws of the State of New Jersey  
10 with its principal place of business at 82 Totowa Road in Wayne, New Jersey 07470.

12       9.    Defendant Matsushita Electric Corporation of America (hereinafter,  
13 Matsushita) is a corporation incorporated under the laws of the State of Delaware  
14 with its principal place of business at One Panasonic Way, Secaucus, New Jersey  
15 07094.

16       10.   Defendant DIRECTV, Inc. (hereinafter, DIRECTV) is a subsidiary  
17 Hughes Electronics Corporation, a subsidiary of General Motors. Hughes Electronics  
18 Corporation is a corporation organized under the laws of the State of Delaware with  
19 its principal place of business at 2230 East Imperial Highway, El Segundo, California  
20 90245.

21       11.   Defendant United States Satellite Broadcasting, Co. (hereinafter, USSB)  
22 is a subsidiary of Hubbard Broadcasting and is a corporation organized under the  
23 laws of the State of Minnesota with its principal place of business at 3415 University  
24 Avenue, St. Paul, Minnesota 55114.

III.

## **NATURE OF THE CONTROVERSY**

## **BACKGROUND**

12. PMC is the assignee of U.S. Patent No. 5,335,277 ("the '277 patent"), entitled "Signal Processing Apparatus and Methods." The '277 patent was duly and properly issued on August 2, 1994, by the United States Patent & Trademark Office and is now, and has been at all times since its date of issue, valid and enforceable.

13. PMC is the assignee of U.S. Patent No. 5,109,414 ("the '414 patent"), entitled "Signal Processing Apparatus and Methods." The '414 patent was duly and properly issued on April 28, 1992, by the United States Patent & Trademark Office and is now, and has been at all times since its date of issue, valid and enforceable

14. PMC is the assignee of U.S. Patent No. 5,233,654 ("the '654 patent"), entitled "Signal Processing Apparatus and Methods." The '654 patent was duly and properly issued on August 3, 1993, by the United States Patent & Trademark Office and is now, and has been at all times since its date of issue, valid and enforceable.

## **INFRINGEMENT ACTIVITIES OF THE DEFENDANTS**

15. Defendant Thomson makes, sells and uses Digital Satellite Systems (DSS) receivers under the RCA, GE and ProScan brandnames that infringe one or more claims of '277 and '654 patents.

16. Defendant HNS makes, sells and uses DSS receivers under the Hughes Networks Systems Insight brandname that infringe one of more claims of '277 and '654 patents.

17. Defendant Hitachi makes, sells and uses DSS receivers under the Hitachi brandname that infringe one or more claims of '277 and '654 patents.

1           18. Defendant Toshiba makes, sells and uses DSS receivers under the  
2           Toshiba brandname that infringe one of more claims of '277 and '654 patents.

3           19. Defendant Matsushita makes, sells and uses DSS receivers under the  
4           Panasonic brandname that infringe one of more claims of '277 and '654 patents.

5           20. Defendant DIRECTV transmits a Direct Broadcast Service (DBS) that  
6           provides program content, data and control signals and executes methods that  
7           directly infringe at least one claim of the '277 and '654 patents. Defendant DIRECTV  
8           also provides program content, data and control signals that contributorily infringe  
9           at least one claim of the '654 and '277 patents.

10           21. Defendant DIRECTV operates a computer based broadcast transmission  
11           facility that directly infringes at least one claim of the '414 patent.

13           22. Defendant USSB transmits a DBS that provides program content, data  
14           and control signals and executes methods that directly infringe at least one claim of  
15           the '277 and '654 patents. Defendant USSB also provides program content, data and  
16           control signals that contributorily infringe at least one claim of the '654 and '277  
17           patents.

18           23. Defendant USSB operates a computer based broadcast transmission  
19           facility that directly infringes at least one claim of the '414 patent.

21           24. Despite having received actual and constructive notice of PMC's '277  
22           and '654 patents Thomson, HNS, Hitachi, Toshiba and Matsushita continue to  
23           make, use and/or sell DSS receivers covered by the '277 and '654 patents. Thomson,  
24           HNS, Hitachi, Toshiba and Matsushita's conduct constitutes willful, wanton, and  
25           deliberate infringement without regard to PMC's rights in the '277 and '654 patents,  
26           and may continue unless enjoined by this Court.

1       25. Despite having received actual and constructive notice of PMC's '414  
2 patent, DIRECTV and USSB continue to use and provide programming,  
3 information and control signals and operate transmission facilities employing  
4 methods that directly infringe the '414 patent.

5       26. Despite having received actual and constructive notice of PMC's '277  
6 and '654 patents, DIRECTV and USSB continue to provide programming,  
7 information and control signals that contributorily infringe and induce others to  
8 infringe the '277 and '654 patents.

9       27. As a result of Thomson, HNS, Toshiba, Hitachi and Matsushita's  
10 willful infringement of the '277 and '654 patents, PMC has suffered damages, the  
11 amount of which cannot be determined without an accounting, and is thus subject  
12 to proof at trial.

14       28. As a result of DIRECTV and USSB's willful infringement of the '277,  
15 '414 and '654 patents, PMC has suffered damages, the amount of which cannot be  
16 determined without an accounting, and is thus subject to proof at trial.

18       29. As a result of DIRECTV and USSB's contributory and induced  
19 infringement of the '277, '414 and '654 patents, PMC has suffered damages, the  
20 amount of which cannot be determined without an accounting, and is thus subject  
21 to proof at trial.

22       WHEREFORE, PMC requests that this Court:

24       (1)      Adjudge Defendants Thomson, HNS, Toshiba, Hitachi and Matsushita  
25 liable for infringement of PMC's '277 and '654 patents;

26       (2)      Adjudge Defendants DIRECTV and USSB liable for direct, contributory  
27 and induced infringement of PMC's '277 and '654 patents;

(3) Adjudge Defendants DIRECTV and USSB liable for infringement of  
PMC's '414 patent;

(4) Award PMC damages on account of Defendants' infringement of PMC's '277, '414 and '654 patents, and treble those damages due to the willful and deliberate nature of the infringement;

(5) Permanently enjoin Defendants, their subsidiaries, officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with Defendants from further infringement of PMC's '277, '414 and '654 patents;

(6) Declare this to be an exceptional case under 35 U.S.C. § 285, and award PMC its attorney's fees;

(7) Award PMC such other and further relief which the Court deems just and proper.

Dated: November 13, 1996

Robert P. Taylor  
Robert F. Ruyak  
Cecilia H. Gonzalez  
**HOWREY & SIMON**

By:

Robert P. Taylor  
Attorneys for Plaintiff  
Personalized Media Communications  
L.L.C.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, plaintiff Personalized Media Communications, L.L.C. hereby demands a trial by jury on all issues triable by right to a jury.

Dated: November 13, 1996

Robert P. Taylor  
Robert F. Ruyak  
Cecilia H. Gonzalez  
HOWREY & SIMON

By:

Robert P. Taylor  
Attorneys for Plaintiff  
Personalized Media Communications,  
LLC.